

REMARKS

This application pertains to a novel bandage for the shoulder and upper arm area. Claims 1-20 are pending.

The Examiner contends that the information disclosure statement filed 12-17-99 (paper No. 6) fails to comply with the provisions of 37 C.F.R. 1.97 because the references do not include the required date. The Examiner's criticism of the IDS and her refusal to consider it are entirely without merit. The documents submitted with the IDS of 12-17-99 are English language abstracts of references that **were already submitted in the IDS of December 1, 1999; which did include the date of said references.** The date of an english translation of a reference is not significant...it is the date of the reference that counts, and those dates were indicated in the December 1, 1999 IDS.

The IDS pertaining to the English language abstracts should therefore be initialed by the Examiner.

The drawings stand objected to because the support strap designed partially divided in two parts immediately after the attachment point on the shoulder cap as recited in claim 9 must be shown.

The description of this feature can be found in the sentence bridging pages 3 and 4 of Applicants's specification. In this sentence, the Examiner will see that the

strap is described as being divided into two parts after the attachment point on the shoulder cap, so as to be able to be fixed both ventrally and also dorsally on the thorax.

Applicants have now provided a proposed new Figure 5 which illustrates that which is described in the foregoing sentence. Figure 5 shows the bandage applied as shown in Figure 4, wherein the support strap 4 is partially divided into two parts, one part shown running ventrally over the thorax and the other part running dorsally over the thorax (illustrated by broken lines). No new matter is added, as the drawing illustrates only that which is disclosed in the original specification, as discussed above.

Approval and entry is respectfully requested.

Applicants also respectfully request consideration and approval of the proposed corrections shown in red on the enclosed copies of Figures 3 and 4. The correction in each case is the addition of a designating line "4" to identify the shoulder strap. Support is found at page 8, line 10.

If the Examiner would be kind enough to indicate her approval of the corrections made to Figures 3 and 4 and the entry of Figure 5, Applicants will submit formal drawings to the Official Draftsperson.

Applicants gratefully acknowledge the Examiner's suggestions for arrangement of the specification. Appropriate headings have now been added, in accordance with

the Examiner's suggestions.

The specification stands objected to because the Examiner requires that the reference to claim 1 on page 2 be removed. This has now been done, and the objection should be withdrawn.

The Examiner has also indicated that VELCRO® should be capitalized and accompanied by generic terminology. The specification has now been amended accordingly.

Claims 1-20 stand rejected under 35 U.S.C. 112, second paragraph, for various reasons more specifically indicated in the Office Action. Applicants have carefully considered each issue raised by the Examiner in this rejection, and have made appropriate amendments to the claims to overcome them. It is believed that the amendments made to the claims obviate the rejection, and the rejection should accordingly now be withdrawn.

Claims 1, 3-6 and 10 stand rejected under 35 U.S.C. 102(b) as anticipated by Abolina (SU 321252).

The Examiner will note, however, that Abolina does not teach or suggest a support strap, such as Applicants' support strap 4, and a holding strap, such as Applicants holding strap 5. Note that Applicant's support strap 4 provides firm support

for the forearm and is independent of the holding strap.

By contrast, Abolina has only one strap, which ***loops around*** the wrist at point 3 and then passes behind the patient to the upper arm. Thus, in Abolina's arrangement, movement of the upper arm toward or away from the body will cause the forearm to move up or down. In Applicants arrangement, the elevation of the forearm is set independently of the movement of the upper arm inwardly towards or outwardly away from the body. In Applicants' bandage, movement of the upper arm part will not be translated to the support strap; but in Abolina's it will.

Applicants' bandage has a support strap and an independent holding strap. Abolina does not. In addition, Abolina's strap does not support the forearm independently of the upper arm, as Applicants' support strap does.

Abolina's "broken arm support" is therefore different than Applicants' bandage, and Abolina cannot possibly anticipate Applicants' claims.

The rejection of claims 1, 3-6 and 10 under 35 U.S.C. 102(b) as anticipated by Abolina should accordingly be withdrawn.

Claims 1, 2 and 7-8 stand rejected under 35 U.S.C. 103(a) as obvious over Munoz in view of Abolina.

Munoz, however, requires a rigid brace bar, and does not have any holding strap for fixing the forearm in position, such as Applicants holding strap 5. Nothing in Abolina would teach or suggest replacing Munoz's rigid brace bar with a connecting strap, and nothing in Abolina would teach or suggest the addition of a holding strap such as Applicants'. Applicants' claims are therefore not obvious over Munoz in view of Abolina, and the rejection of claims 1, 2 and 7-8 under 35 U.S.C. 103(a) as obvious over Munoz in view of Abolina should be withdrawn.

Claims 11, 12, and 20 stand rejected under 35 U.S.C. 103(a) as obvious over Munoz in view of Abolina as applied to claim 1 above, and further in view of Johnson (4,550,869). The Examiner cites Johnson as suggesting straps made from laminated foam. Laminated foam will not, however, overcome the deficiencies of the Munoz/Abolina combination of references discussed above. No combination of Munoz, Abolina and Johnson will ever lead to Applicants' novel bandage, and the rejection of claims 11, 12, and 20 under 35 U.S.C. 103(a) as obvious over Munoz in view of Abolina as applied to claim 1 above, and further in view of Johnson (4,550,869) should be withdrawn.

Claims 13-15 and 19 stand rejected under 35 U.S.C. 103(a) as obvious over Abolina in view of Ford (4,214,579). Here again, the Examiner cites a secondary reference for a teaching of specific materials of construction. Applicants's bandage differs from Abolina's support both structurally and functionally, as discussed above. The substitution of one material of construction for another cannot possibly overcome

these structural and functional differences. The Ford reference, when added to Abolina, will never lead to the structural changes that would be required to arrive at Applicants' bandage. Applicants claims cannot therefore be seen as obvious over Abolina in view of Ford, and the rejection of claims 13-15 and 19 under 35 U.S.C. 103(a) as obvious over Abolina in view of Ford (4,214,579) should be withdrawn.

Finally, claims 16-18 stand rejected under 35 U.S.C. 103(a) as obvious over Abolina in view of Ford, as discussed above and further in view of Cherubini. The Examiner cites Cherubini for a suggestion of heating the support between a positive and negative mold. This, however, will not overcome the structural and functional differences between Applicants' bandage and the subject matter taught by the Abolina/Ford references, discussed above. The rejection of claims 16-18 under 35 U.S.C. 103(a) as obvious over Abolina in view of Ford, and further in view of Cherubini should therefore be withdrawn.

In view of the present amendments and remarks it is believed that claims 1-20 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this amendment is required, applicants request that this be considered a petition therefore. Please charge the required petition fee to Deposit Account No. 14-1263.

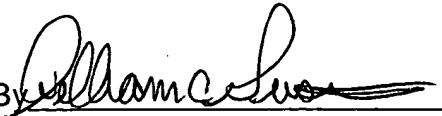
ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit

Account No. 14-1263.

Respectfully submitted

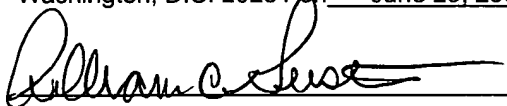
NORRIS, McLAUGHLIN & MARCUS

By 
William C. Gerstenzang
Reg. No. 27,552

WCG:tmh

220 East 42nd Street
30th Floor
New York, New York 10017
(212) 808-0700

I hereby certify that this correspondence is being
deposited with the United States Postal Service
as ~~first class~~ ^{Express} mail in an envelope addressed to :
Assistant Commissioner for Patents,
Washington, D.C. 20231 on June 28, 2002



Date June 28, 2002

**MARKED-UP COPIES OF AMENDED PARAGRAPHS, SHOWING CHANGES
RELATIVE TO PREVIOUS VERSIONS.**

Page 5, paragraph beginning at line 8 (amended):

The straps can be fixed, for example, using [velcro] **VELCRO® hook and loop** closures or press studs.

Page 5, paragraph beginning at line 20 (amended):

The upper arm part and the forearm part can in this case be connected to one another by means of a [velcro] **VELCRO® hook and loop** closure, press studs or seams. An adjustable connection is provided in particular to meet the individual lengths of the extremities and thereby to improve the shape fit efficiently.

Page 7, paragraph beginning on line 38 and ending on page 8, line 6 (amended):

The bandage 100 shown in Figure 3 is made up essentially of the upper arm part 1 and the forearm part 2, which are connected to one another in a substantially flexible manner via an appropriately shaped connection strap [5] **3**. The connection strap 3 is secured on the upper arm part 1 by means of [velcro] **VELCRO® hook and loop** closures, and the connection to the forearm part 1 is effected by a press stud 52. The securing by [velcro] **VELCRO® hook and loop** closures [51] **31** ensures that the bandage can be adapted to the individual circumstances of the patient's arm.

Page 8, paragraph beginning at line 8 (amended):

The upper arm part 1 is fixed ventrally to the forearm in the area of the wrist by a

support strap 4 which runs from the shoulder to the neck area. The support strap 4 is fixed by means of a [velcro] **VELCRO® hook and loop** closure 41.

Page 8, paragraph beginning at line 11 (amended):

The forearm part 2 is fixed with a holding strap 5 which, starting from the hand region, runs dorsally in the lumbar area to the distal upper arm. The holding strap 5 is secured by a [velcro] **VELCRO® hook and loop** closure 51.

Page 8, paragraph beginning at line 17 (amended):

Finally, Figure 4 shows how the bandage 100 according to the invention is applied on the right shoulder and right forearm of the patient. Starting from the patient's wrist, the holding strap 5 runs behind his back and is guided round the right upper arm in a loop and fixed to the holding strap 5 itself, namely by means of the [velcro] **VELCRO® hook and loop** closure 51, behind the patient's back.

MARKED-UP COPIES OF AMENDED CLAIMS, SHOWING CHANGES RELATIVE TO PREVIOUS VERSION(S).

Claim 1 (amended). Bandage for the shoulder and upper arm area, comprising an anatomically shaped upper arm part which [receives] **is adapted to receive** the upper arm **of a patient**, and an anatomically shaped forearm part which [receives] **is adapted to receive** the forearm **of said patient**,

the upper arm part being designed in the shape of a half shell and having a [cap-like] recess [for receiving] **adapted to fit over and enclose** the shoulder joint **of said patient in said half shell**, and

the forearm part being designed in the shape of a half shell and having an enclosure for the elbow joint, and

the upper arm part and the forearm part being connected to one another in an adjustable manner, and a support strap being arranged on the upper arm part and a holding strap being arranged on the forearm part.

Claim 4 (twice amended). Bandage according to Claim 1, wherein **, in addition to the recess adapted to fit over and enclose the shoulder, the upper arm part**

comprises profiled recesses [can be worked into the upper arm part and] which exert a partial strengthening action

Claim 7 (twice amended). Bandage according to Claim 1, wherein the upper arm part is fixed ventrally to the forearm part in the area of the wrist by means of [a] said support strap [which] and said support strap runs from the shoulder to the neck area.

Claim 9 (twice amended). Bandage according to Claim 1, wherein [the] said support strap has a first end which is attached to said upper arm part and a second end which is attached to said forearm part, and said first end is [designed partially divided in] split into two [parts] forks immediately after the [attachment] point at [on the shoulder cap] which it is attached to said upper arm part.

Claim 12 (twice amended). Bandage according to Claim 1, wherein the straps have a high padding effect and, with loading of about 50 N, have a [preferred] longitudinal expansion of <35%.

Not approved
9-24-02-CP

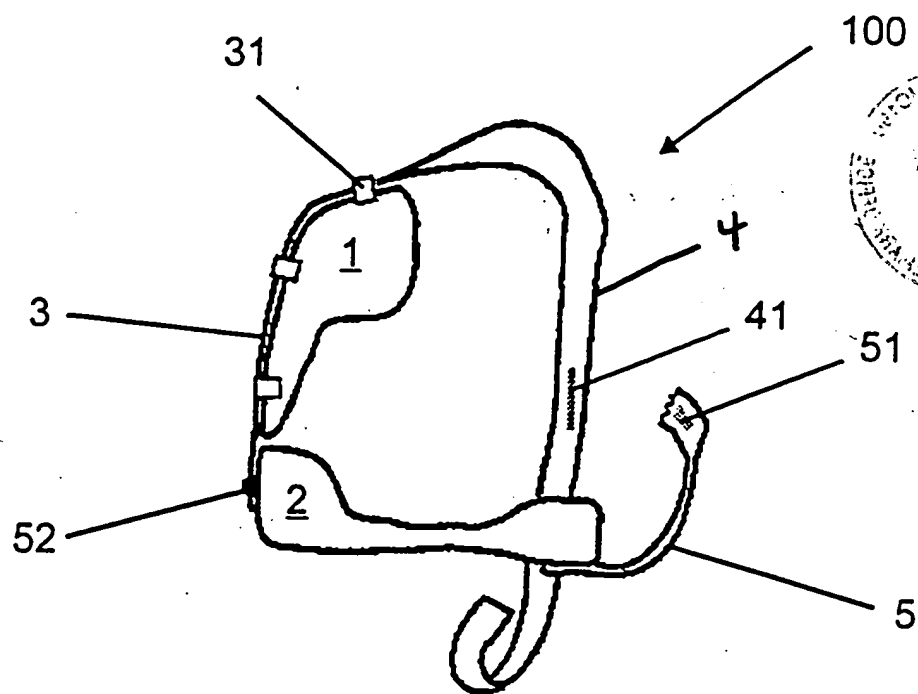


Figure 3

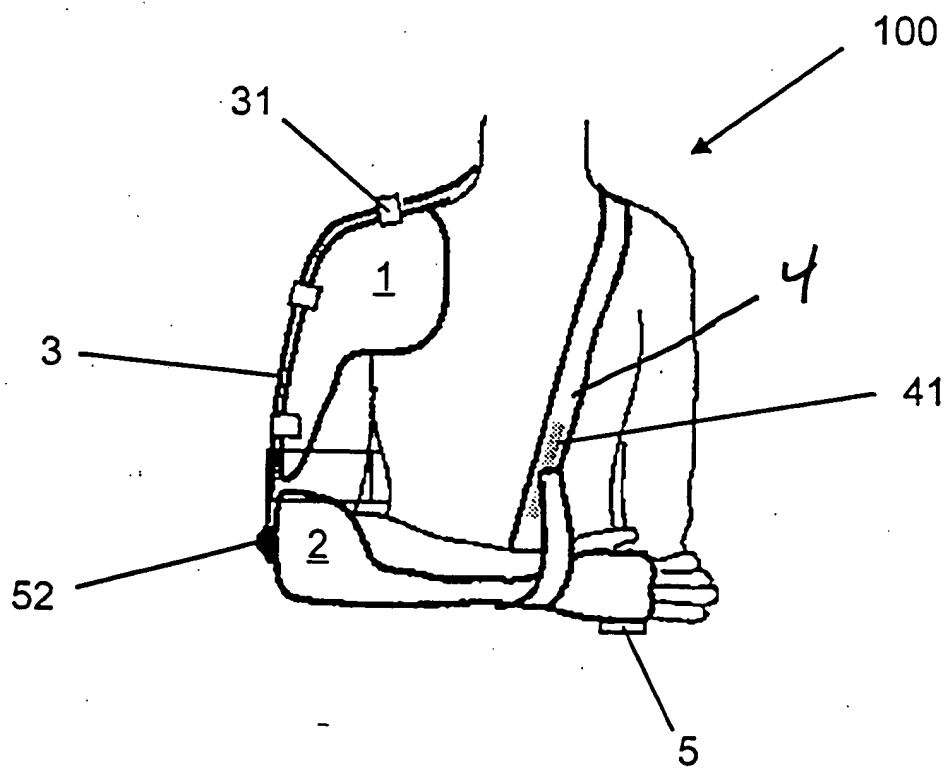


Figure 4

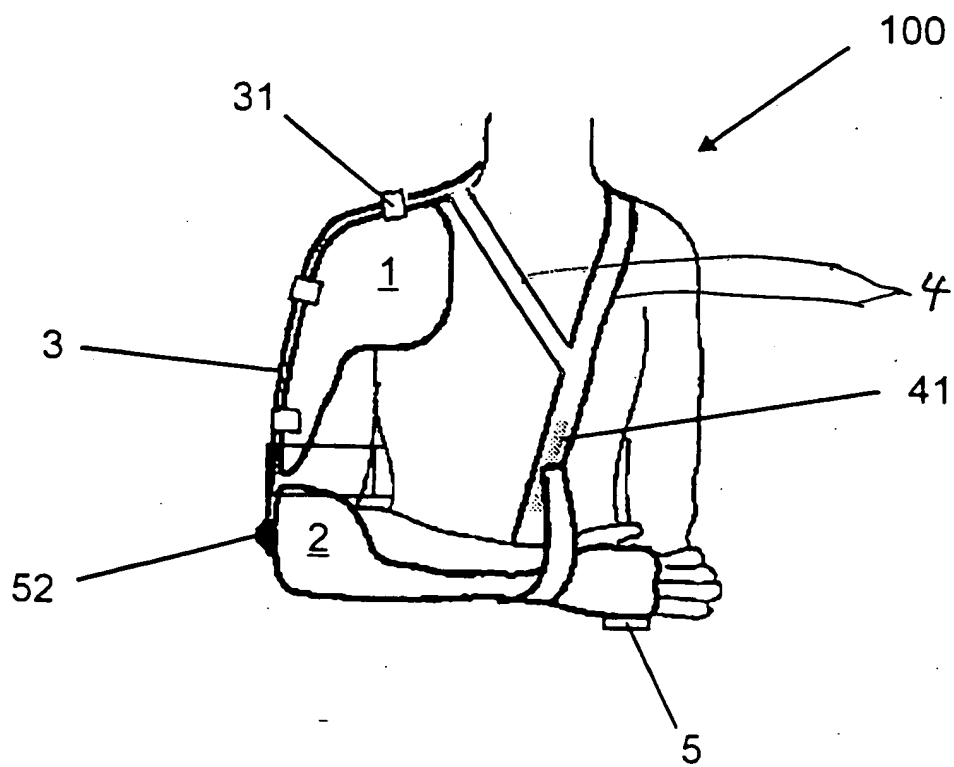


Figure 5